

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WATERFALL HOMEOWNERS
ASSOCIATION et al.,

Plaintiffs,

vs.

VIEGA, INC. et al.,

Defendants.

2:11-cv-01498-RCJ-GWF

ORDER

This Rule 23 class action arises out of the installation of allegedly defective high-zinc-content “yellow brass” (high zinc content) plumbing fittings in residences throughout the Las Vegas area. Several duplicative such class actions have been filed in this District, and in the state courts, by the same law firms (“Plaintiffs’ Counsel”) against many of the same defendants, albeit with different named plaintiffs. Most such actions have been removed from state court, but Plaintiffs’ Counsel filed the present case in this Court. Pending before the Court is Defendant Centex Homes’ (“Centex”) motion for involuntary joinder.

Centex notes that Plaintiffs’ Counsel has sued many of the same defendants (including Centex) in state court on behalf of non-party Stonebrook HOA, and argues that the Court should involuntarily join Stonebrook HOA to the present case as a necessary party because it is a putative class member in the present class action that named Plaintiff Waterfall HOA seeks to represent. But as the parties are aware, this Court recently ruled that HOAs cannot consistent with Article III’s case or controversy requirement be named Plaintiffs or class members in this

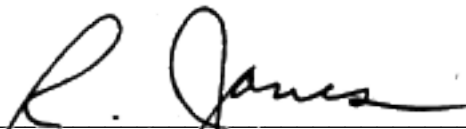
1 case insofar as they seek to recover damages on behalf of other property owners. The Court has
2 therefore required Plaintiffs to amend by substituting individuals as named Plaintiffs and noting
3 that class members are property owners, not HOAs, except insofar as a given HOA is itself a
4 property owner. Stonebrook HOA is therefore not only not a necessary party under Rule 19, it is
5 an entity with no standing. And even if the Court had ruled that HOAs could be class members
6 in this case, Rule 19's joinder requirement is subsumed by Rule 23, which protects the interests
7 of class members through notice procedures. Stonebrook HOA's decision to file its own suit
8 may or may not constitute a de facto opt-out decision in the event the present action were to be
9 certified, and if HOAs were determined to be proper class members, but that issue is unripe.
10 Centex does not allege that the Court's jurisdiction or judgments are threatened by the state court
11 action. *See* 28 U.S.C. § 2283.

12 CONCLUSION

13 IT IS HEREBY ORDERED that the Motion to Compel Joinder (ECF No. 121) is
14 DENIED.

15 IT IS SO ORDERED.

16 Dated this 11th day of September, 2012.

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18 ROBERT C. JONES
19 United States District Judge
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